

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

TERRANCE ALLEN KING,

Plaintiff,

v.

ALLISON, *et al.*,

Defendants.

No. 1:23-cv-0681 JLT BAM (PC)

**ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS REGARDING
DISMISSAL OF CERTAIN CLAIMS AND
DEFENDANTS**

(Doc. 21)

Terrance Allen King is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983. The magistrate judge found Plaintiff stated cognizable claims for violations of rights arising under the Eighth Amendment against: (1) Burns for the painful cuffing and refusal to loosen the cuffs on 1/7/23; (2) Burns and Mumby for the force used against Plaintiff on 1/7/23 in the rotunda; (3) Burns for deliberate indifference to medical care on 1/7/23; and (4) J. Ramirez, G. Sanchez, and C. Patricio for failure to protect on 1/7/23. The magistrate judge recommended the action proceed on these cognizable claims in the Second Amended Complaint, and all other claims and defendants be dismissed for failure to state a claim. (Doc. 21.)

The Court served the Findings and Recommendations on Plaintiff and notified him that any objections had to be filed within 14 days after service and that the failure to file timely objections may result in a waiver of rights on appeal. (Doc. 21 at 16.), citing *Wilkerson v.*

1 *Wheeler*, 772 F.3d 834, 839 (9th Cir. 2014).) He did not file objections, and the deadline to do so
2 expired.

3 Pursuant to 28 U.S.C. § 636(b)(1)(C), the Court conducted a *de novo* review of this case.
4 Having carefully reviewed the entire file, the Court concludes the Findings and Recommendations
5 are supported by the record and by proper analysis. Accordingly, the Court **ORDERS**:

- 6 1. The findings and recommendations issued on September 12, 2023 (Doc. 21) are
7 **ADOPTED** in full.
- 8 2. This action **SHALL** proceed on Plaintiff's Second Amended Complaint (Doc. 20)
9 only on Plaintiff's Eighth Amendment claims against:
 - 10 a. Burns for the painful cuffing and refusal to loosen the cuffs on 1/7/23;
 - 11 b. Burns and Mumby for the force used against Plaintiff on 1/7/23 in the
12 rotunda;
 - 13 c. Burns for deliberate indifference to medical care on 1/7/23; and
 - 14 d. J. Ramirez, G. Sanchez, and C. Patricio for failure to protect on 1/7/23.
- 15 3. All other claims and defendants are **DISMISSED** from this action for failure to
16 state claims upon which relief may be granted.
- 17 4. This action is referred to the Magistrate Judge for further proceedings.

18 IT IS SO ORDERED.

19
20 Dated: **October 16, 2023**


UNITED STATES DISTRICT JUDGE